

ORIGINAL

COMMISSIONERS
KRISTIN K. MAYES – Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

OPEN MEETING ITEM



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AZ CORP COMMISSION
DOCKET CONTROL

DATE: JANUARY 29, 2010

DOCKET NO.: RR-03639A-09-0430

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Marc E. Stern. The recommendation has been filed in the form of an Opinion and Order on:

UNION PACIFIC RAILROAD
(UPGRADE CROSSING)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

FEBRUARY 8, 2010

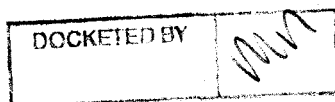
The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

FEBRUARY 18, 2010

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission
DOCKETED

JAN 29 2010



ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

1200 WEST WASHINGTON STREET; PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET; TUCSON, ARIZONA 85701-1347

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This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail SABernal@azcc.gov

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 KRISTIN K. MAYES - Chairman
4 GARY PIERCE
5 PAUL NEWMAN
6 SANDRA D. KENNEDY
7 BOB STUMP

8 IN THE MATTER OF THE APPLICATION OF
9 THE TOWN OF GILBERT TO UPGRADE A
10 CROSSING OF THE UNION PACIFIC
11 RAILROAD AT WILLIAMS FIELD ROAD IN
12 THE TOWN OF GILBERT, MARICOPA
13 COUNTY, ARIZONA, AAR/DOT NO. 741-831-F.

DOCKET NO. RR-03639A-09-0430

DECISION NO. _____

OPINION AND ORDER

10 DATE OF HEARING: December 14, 2009

11 PLACE OF HEARING: Phoenix, Arizona

12 ADMINISTRATIVE LAW JUDGE: Marc E. Stern

13 APPEARANCES: Mr. William P. Sullivan, CURTIS, GOODWIN,
14 SULLIVAN, UDALL & SCHWAB, PLC, on behalf of
the Town of Gilbert;

15 Mr. Terrance L. Sims, BEAUGUREAU, ZUKOWSKI
16 & HANCOCK, P.C., on behalf of the Union Pacific
Railroad Company; and

17 Mr. Charles Hains, Staff Attorney, Legal Division, on
18 behalf of the Safety Division of the Arizona Corporation
Commission.

19 **BY THE COMMISSION:**

20 On September 4, 2009, the Town of Gilbert ("Town") filed with the Arizona Corporation
21 Commission ("Commission") an application for approval for the Union Pacific Railroad ("Railroad")
22 to upgrade an existing crossing at Williams Field Road in the Town of Gilbert, Maricopa County,
23 Arizona at AAR/DOT NO. 741-831-F ("Application").

24 On September 1, 2009, by Procedural Order, the proceeding was scheduled for a hearing on
25 December 14, 2009.

26 On December 14, 2009, a full public hearing was convened before a duly authorized
27 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. The Town, the
28 Railroad and the Commission's Safety Division Railroad Safety Section ("Staff") were present with

23. Staff is recommending that the Application be approved.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and over the subject matter of the Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and 40-337.01.

2. Notice of the Application was provided in accordance with the law.

3. Installation of the crossing upgrade is necessary for the public's convenience and safety.

4. Pursuant to A.R.S. §§ 40-336 and 40-337, the Application should be approved as recommended by Staff.

5. After the installation of the crossing upgrades to Williams Field Road, the Railroad should maintain the crossing in accordance with A.A.C. R14-5-104.

ORDER

IT IS THEREFORE ORDERED that the Town of Gilbert's Application as described herein, is hereby approved.

IT IS FURTHER ORDERED that the Union Pacific Railroad shall complete the crossing upgrade as described in the Application within fifteen months of the effective date of this Decision.

IT IS FURTHER ORDERED that the Union Pacific Railroad shall notify the Commission, in writing, within ten days of both the commencement and the completion of the crossing upgrade, pursuant to A.A.C. R14-5-104.

IT IS FURTHER ORDERED that upon completion of the crossing upgrade, the Union Pacific Railroad shall maintain the crossing in compliance with A.A.C. R14-5-104.

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1 IT IS FURTHER ORDERED that the Union Pacific Railroad shall file, every five years from
 2 the effective date of this Decision, with the Commission's Docket Control, as a compliance item in
 3 this docket, an update on the average daily traffic count at the crossing described in the Application.
 4 The updated average daily traffic count shall be obtained from the Road Authority or a contractor
 5 hired by the Railroad.

6 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

7 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
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 9

10 CHAIRMAN _____ COMMISSIONER _____
 11

12 COMMISSIONER _____ COMMISSIONER _____ COMMISSIONER _____
 13

14 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
 15 Executive Director of the Arizona Corporation Commission,
 16 have hereunto set my hand and caused the official seal of the
 17 Commission to be affixed at the Capitol, in the City of Phoenix,
 18 this _____ day of _____, 2010.

19 _____
 20 ERNEST G. JOHNSON
 EXECUTIVE DIRECTOR

21 DISSENT _____
 22

23 DISSENT _____
 24

MES:db

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 27
 28

1 SERVICE LIST FOR: UNION PACIFIC RAILROAD COMPANY

2 DOCKET NO.: RR-03639A-09-0393

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4 Aziz Aman, Manager of Special Projects
5 UNION PACIFIC RAILROAD COMPANY
6 2073 East Jade Drive
7 Chandler, AZ 85286

Janice Alward, Chief Counsel
Legal Division
AZ CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

6 William P. Sullivan
7 CURTIS, GOODWIN, SULLIVAN, UDALL
8 & SCHWAB, PLC
9 2712 North 7th Street
10 Phoenix, AZ 85006-1003
11 Attorneys for the Town of Gilbert

Brian Lehman, Chief
Railroad Safety Section of the Safety Division
AZ CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

10 Anthony J. Hancock
11 Terrance L. Sims
12 BEAUGUREAU, ZUKOWSKI &
13 HANCOCK, P.C.
14 302 East Coronado
15 Phoenix, AZ 85004
16 Attorneys for Union Pacific Railroad Company

14 Robert Travis, P.E.
15 State Railroad Liaison
16 AZ DEPARTMENT OF TRANSPORTATION
17 205 South 17th Avenue, Room 357
18 M/D 618E
19 Phoenix, AZ 85007

17 Rick Allred
18 TOWN OF GILBERT
19 90 East Civic Center Drive
20 Gilbert, AZ 85296

20 Robert Lyons, P.E.
21 AZTEC ENGINEERING
22 4561 East McDowell Road
23 Phoenix, AZ 85008

22 Kelly Roy, Utility Project Coordinator
23 MARICOPA COUNTY DEPARTMENT
24 OF TRANSPORTATION
25 2901 West Durango Street
26 Phoenix, AZ 85009

25

26

27

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